

# CALIFORNIA POLLUTION CONTROL FINANCING AUTHORITY

## TITLE 4, DIVISION 11, ARTICLE 7

### INITIAL STATEMENT OF REASONS

#### Introduction

Existing law establishes the California Capital Access Loan Program (CalCAP) and authorizes the California Pollution Control Financing Authority (CPCFA) to contract with specified financial institutions to make loans to eligible small businesses that fall just outside of most conventional underwriting standards (Health and Safety Code, § 44559.2).

Under existing law, borrowers and lenders must pay a fee on CalCAP loans to the lender's loss reserve account (Health and Safety Code, § 44559.3). The fees paid to the loss reserve account are matched by CPCFA at 100 percent or 150 percent of the lenders contribution (Health and Safety Code, § 44559.4(d)). The funds held in the lender's loss reserve account are the sole property of CPCFA and are used to cover losses on any loan that the lender has enrolled in CalCAP (Health and Safety Code, § 44559.5).

CPCFA proposes to amend Sections 8070, 8072, and 8073 and add Section 8078.2 of Title 4 of the California Code of Regulations concerning the administration of the program.

The proposed amendments expand access to the benefits of CalCAP primarily by increasing the Qualified Loan size and Qualified Business size.

#### Section Analysis

**Section 8070 (d)** amends the definition of "Fees" or "Fee" to include "Premiums" or "Premium." This amendment adds terms the CalCAP lenders are more familiar with and will provide better consistency with the Federal Statute.

**Section 8070 (r)** revises the definition of "Qualified Business" to include the term "Small Business Concern" and its definition; it increases the business size from "100 or fewer employees" to "500 or fewer employees"; and eliminates the annual revenue restriction by combining 8070 (v) with 8070 (r). This amendment will combine related definitions and expand the size of eligible businesses, which will eliminate confusion to the reader.

**Section 8070 (s)** amends the definition of "Qualified Loan," establishes a maximum total loan amount of \$5 million for any one loan, and increases the allowable enrolled loan amount for a borrower from any one Lender to \$2.5 million. The previous "Qualified Loan" definition restricted types of businesses that could legally receive financing due to the Authority's funding restrictions. As the result of receiving funds from the State and Federal governments, some of the previously restricted businesses are now eligible for financing and enrollment in the program. The amendment classifies many of those previously restricted businesses into categories based on available funding sources: businesses that shall never receive funding (regardless of the

funding sources) and businesses that would receive financing from the Authority.

**Section 8072 (c)** amends the information required for CalCAP loan enrollment and revises the certification that the enrolled loan amount does not exceed \$2.5 million. Some required information has been moved from one subsection to coincide with the organization of the loan enrollment application. The information required for loan enrollment and loan limit size are also being amended to coincide with federal requirements outlined in the Small Business Credit Initiative. The Authority has reevaluated the required loan information and found that some previously requested information is not required for reporting.

**Section 8072 (j)** eliminates the requirement to submit a “Notification of Work-Out Status” form. The Authority has reevaluated the required loan documentation and found that some previously requested information is not required for reporting.

**Section 8073 (c)** adds an additional rating entity to the list of entities the Authority uses to verify the financial viability of a lending institution. The additional rating entity is one used by the Investments Division in the California State Treasurer’s Office. By expanding the types of rating entities the Authority relies on, the Authority can obtain more well-rounded and accurate descriptions of a lending institution’s financial viability.

**Proposed Section 8078.2** adds a Federal Capital Access Program and Funding section to meet requirements and follow guidelines outlined in the State Small Business Credit Initiative (enacted pursuant to the Small Business Jobs Act). Under the Small Business Jobs Act (H.R. 5297, Public Law No. 111-240), California will be receiving \$168.6 to create jobs and increase lending to California small businesses. CalCAP will be receiving \$84 million of that allocation. All of the provisions of section 8078.2 are required by federal statute in order for the CalCAP program to receive \$84 million federal dollars under the Small Business Jobs Act.

### **Reliance**

These regulatory amendments are the result of periodic evaluation of the regulations and issues encountered during specific loan transactions by CPCFA. They were also developed in consultation with CalCAP participating lenders.

### **Alternatives Considered**

The CPCFA Executive Director has determined that no alternatives are more effective, or as effective and less burdensome to affected persons or small businesses, than the proposed amended regulations.

### **Mandated Technology or Equipment**

The CPCFA Executive Director has determined the revisions do not mandate the use of specific technologies or equipment.

### **Impact on Small Business and Others**

The CPCFA Executive Director has determined that the revisions will have no significant adverse economic impact on small businesses, other businesses directly affected, or private persons. Furthermore, the CPCFA Executive Director has determined that the amended regulations do not impose any additional cost or savings requiring reimbursement under Section 17500 et al of the Government Code, any other non-discretionary cost or savings to any local agency or any cost or savings in federal funding to the State. Pursuant to the State Administrative Manual Section 6680, a Fiscal Impact Statement (Form 399) is submitted without the signature of a Project Budget Manager at the Department of Finance, as there are no fiscal impact disclosures required by State Administrative Manual Sections 6600-6670. There will be no cost or savings to any other State Agency pursuant to Section 11346.1(b) or 11346.5(a)(6) Government Code.